

FILED
SEP 06 2018
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ERIK K. BARDMAN

and

JENNIFER F. WOLF,

Defendants.

Case No. 3:16-cv-02023-JST

PROPOSED FINAL JUDGMENT AS TO ERIK K. BARDMAN

The Securities and Exchange Commission having filed a Complaint and Defendant Erik K. Bardman having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a)(2) and (3) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)(2) and (3)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly: to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Rule 13b2-1 under the Securities Exchange Act of 1934 (the “Exchange Act”) [17 C.F.R. § 240.13b2-1] promulgated pursuant to Section 13(b) of the Exchange Act [15 U.S.C. § 78m(b)] by directly or indirectly, falsifying or causing to be falsified, any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$87,000.00, representing profits gained as a result of the conduct alleged in the Complaint and a civil penalty in the amount of \$87,000.00 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]. Defendant shall satisfy this obligation by paying \$174,000.00 to the Securities and Exchange Commission within 14 days after entry of this Final Judgment.

Defendant may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Erik K. Bardman as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant.

The Commission may enforce the Court's judgment for disgorgement by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds,

1 together with any interest and income earned thereon (collectively, the “Fund”), pending further
2 order of the Court.

3 The Commission may propose a plan to distribute the Fund subject to the Court’s
4 approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund
5 provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain
6 jurisdiction over the administration of any distribution of the Fund. If the Commission staff
7 determines that the Fund will not be distributed, the Commission shall send the funds paid
8 pursuant to this Final Judgment to the United States Treasury.

9 Regardless of whether any such Fair Fund distribution is made, amounts ordered to be
10 paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the
11 government for all purposes, including all tax purposes. To preserve the deterrent effect of the
12 civil penalty, Defendant shall not, after offset or reduction of any award of compensatory
13 damages in any Related Investor Action based on Defendant’s payment of disgorgement in this
14 action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such
15 compensatory damages award by the amount of any part of Defendant’s payment of a civil
16 penalty in this action (“Penalty Offset”). If the court in any Related Investor Action grants such
17 a Penalty Offset, Defendant shall, within 30 days after entry of a final order granting the Penalty
18 Offset, notify the Commission’s counsel in this action and pay the amount of the Penalty Offset
19 to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall
20 not be deemed an additional civil penalty and shall not be deemed to change the amount of the
21 civil penalty imposed in this Judgment. For purposes of this paragraph, a “Related Investor
22 Action” means a private damages action brought against Defendant by or on behalf of one or
23 more investors based on substantially the same facts as alleged in the Complaint in this action.

24 IV.

25 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall,
26 within 30 days of the entry of this order, reimburse Logitech International, S.A. \$93,797.50
27 pursuant to Section 304(a) of the Sarbanes-Oxley Act [15 U.S.C. § 7243(a)].

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the Complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under this Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).


VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VIII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: 9/6/18, 2018



JON S. TIGAR
United States District Judge